

### REMARKS

The Requirement for Restriction/Election dated June 1, 2009 has been received and its contents carefully noted. With this paper, all claims are unchanged and none are added.

#### REQUIREMENT FOR ELECTION/RESTRICTIONS

The Office action requires restriction to one of the following inventions under 35 USC §121 and 372:

Group I: Claims 1-17, drawn to a semiconductor device;

Group II: Claims 18-26, drawn to a method of making semiconductor device.

Applicant provisionally elects Group I, claims 1-17, for prosecution and traverses the restriction requirement.

Applicant has reviewed the arguments advanced by the Office in imposing the restriction requirement and believes that the restriction requirement is inappropriate. On page 2 of the Requirement for Restriction/Election, the Office states that the "inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: claim 1 of group I lacks special technical features auxiliary layer (5) and the second insulating layer (7) of claim 18 of group II."

Applicant respectfully traverses the restriction for the following reasons:

Applicant respectfully submits that since claim 1 is drawn to the product of the manufacturing process of claim 18, it is proper that the auxiliary layer (5) is not recited as a part of the finished semiconductor device. Claim 18 explicitly states that the auxiliary layer (5) is "to be later removed". Such layers as the auxiliary layer (5), which are present only during certain stages of the manufacturing process are also called "sacrificial layers" in the relevant art. Thus, while it is a feature of the claimed process to use a sacrificial auxiliary layer (i.e. auxiliary layer (5)), it is - by the very nature of a sacrificial layer - not a feature of the device made using the claimed process.

Regarding the second insulating layer (7), claim 18 explicitly recites that the second insulating layer is structured in such a way that a spacer of insulating material is produced at the edge of the emitter window. The spacer of insulating material, however, is also explicitly recited in claim 1. Clearly, the spacer is what remains from the second insulating layer in the finalized semiconductor device. Therefore, it would not make sense to recite the second insulating layer in the device claim, because all that remains of it is the spacer, which, however, is recited in

claim 1. Applicant respectfully submits that it is sufficient to recite in claim 1 the spacer resulting from the original second insulating layer after the structuring process.

In view of the foregoing, applicant respectfully requests that the Office reconsider and remove the restriction requirement because the method claims 18-26 in Group II are not distinct from the device claims 1-17 in Group I.

In conclusion, the applicant believes that inventions of Groups I and II are indistinct from each other. Further, all claims in the application are intimately interrelated and they should be examined together.

Reconsideration and early allowance are requested.

Respectfully submitted,

Date: July 29, 2009

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